

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MYLES KING,)	CASE NO. 1:15CV223
)	
Plaintiff,)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	Magistrate Judge George J. Limbert
)	
CAROLYN W. COLVIN ¹ ,)	
ACTING COMMISSIONER OF SOCIAL)	<u>REPORT AND RECOMMENDATION</u>
SECURITY ADMINISTRATION,)	<u>OF MAGISTRATE JUDGE</u>
)	
Defendant.)	

Plaintiff Myles King ("Plaintiff"), acting *pro se*, requested judicial review of the final decision of the Commissioner of the Social Security Administration ("Defendant"). ECF Dkt. #1. On February 2, 2015, the undersigned issued an Order granting Plaintiff's motion to proceed *in forma pauperis*. ECF Dkt. #4. A copy of the February 2, 2015 Order was mailed to Plaintiff, however, that copy was returned to the Court. ECF Dkt. #5. The Court spoke with Plaintiff on February 19, 2015, and Plaintiff provided a corrected address. On February 20, 2015, the undersigned ordered that Defendant was to file a certified copy of the transcript of the administrative proceedings, and Plaintiff was to file a brief within thirty days of the filing of the transcript. ECF Dkt. #7. Defendant filed a copy of the transcript on April 30, 2015. ECF Dkt. #11. Plaintiff's brief was due on May 30, 2015.

As of August 17, 2015, Plaintiff had not filed a brief, and the undersigned issued an order to show cause. ECF Dkt. #12. A copy of the order to show cause was mailed to Plaintiff on August 17, 2015, but that copy of the order to show cause was returned to the Court on August 25, 2015. ECF Dkt. #13. On August 27, 2015, the Court spoke with Plaintiff and he stated that he was planning on filing a brief. Plaintiff was informed that he would be required to file a motion for leave to file the brief *instanter*, and Plaintiff indicated that he would file the brief in that manner.

¹On February 14, 2013, Carolyn W. Colvin became the acting Commissioner of Social Security, replacing Michael J. Astrue.

As of the date of the instant Order, Plaintiff has not filed a brief in this case. Plaintiff was warned that he was required to file a brief by May 30, 2015. Over four months after this warning, Plaintiff has not filed a brief as required. Accordingly, the undersigned recommends that the instant case be dismissed without prejudice for failure to prosecute.

DATE: January 7, 2016

/s/George J. Limbert
GEORGE J. LIMBERT
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this notice. Fed. R. Civ. P. 72; L.R. 72.3. Failure to file objections within the specified time WAIVES the right to appeal the Magistrate Judge's recommendation. L.R. 72.3(b).